

# EXHIBIT A

**In the Matter Of:**  
**SOCIAL MEDIA CASES,**  
**JCCP5255**

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**MOTION**

**November 10, 2025**

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SOCIAL MEDIA CASES,  
JCCP5255, 11/10/2025

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MOTION

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT SSC 12

HON. CAROLYN B. KUHL, JUDGE

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COORDINATION PROCEEDING SPECIAL  
TITLE [RULE 3.400]

)  
) CASE NO. JCCP5255  
)

SOCIAL MEDIA CASES  
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

NOVEMBER 10, 2025

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1 CASE NUMBER: JCCP5255  
2 CASE NAME: SOCIAL MEDIA CASES  
3 LOS ANGELES, CALIFORNIA MONDAY, NOVEMBER 10, 2025  
4 DEPARTMENT SSC 12 HON. CAROLYN B. KUHL  
5 REPORTER: ESTRELLA HERMAN, CSR NO. 13865  
6 TIME: P.M. SESSION  
7  
8  
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10 THE COURT: We have the Social Media JCCP. The clerk has  
11 taken the appearances of counsel appearing by LACC. I'll take  
12 appearances in the courtroom, please.

13 MS. MCCONNELL: Good afternoon, Your Honor. Mariana  
14 McConnell, liaison counsel for plaintiffs.

15 MR. AUTRY: Good afternoon. Josh Autry for plaintiffs.

16 MS. JEFFCOTT: Good afternoon. Emily Jeffcott for  
17 plaintiffs.

18 MR. VANZANDT: Joseph VanZandt for plaintiffs.

19 MR. MANDICH: Good afternoon, Your Honor. Marc Mandich  
20 for plaintiffs.

21 MS. LANIER: Rachel Lanier for plaintiffs.

22 MR. DRAPER: Glenn Draper for plaintiffs.

23 MR. VAUGHN: Davis Vaughn for plaintiffs.

24 THE COURT: All right. We've got -- go ahead.

25 MR. KIEFFER: Jon Kieffer for plaintiffs.

26 THE COURT: I'm sorry?

27 MR. KIEFFER: Jon Kieffer for plaintiffs.

28 MR. DAVIS: And Adam Davis for plaintiffs.

1 MS. SIMONSEN: Good afternoon, Your Honor. Ashley  
2 Simonsen of Covington & Burling for the Meda defendants. And  
3 we do have a representative from Meta here today.

4 MS. CHARLES: Good afternoon. Amber Charles also on  
5 behalf of the Meta defendants from Covington & Burling.

6 MS. TELLER: Faye Paul Teller from Munger, Tolles & Olson  
7 for defendant Snap Inc. And we also have a representative here  
8 today.

9 MR. SENTENAC: Mark Sentenac on behalf of the TikTok  
10 defendant.

11 MR. LI: Good afternoon, Your Honor. Luis Li on behalf  
12 of Google and YouTube.

13 THE COURT: Okay. All right. You can all be seated.

14 There are a couple of matters raised in postings  
15 I'm prepared to discuss with you, but my preference would be to  
16 proceed with argument on the motions as agreed first unless  
17 there's a beg to do otherwise.

18 Okay. We'll start with the motions. So we have  
19 14 motions on calendar today. They are motions to exclude  
20 expert opinions on various bases. In a Case Anywhere posting  
21 on November 5, the parties have agreed to argue motions  
22 pertaining to two experts and two plaintiffs and then present  
23 brief argument with regard to one aspect of Expert McCarron's  
24 report.

25 So we will proceed -- I'm assuming that you  
26 would -- well, let me just ask. It's defendants' motions. How  
27 would you proceed? You've indicated 25 minutes per side on the  
28 motions regarding Bagot and Murray. How do you want to proceed



1 with that?

2 MS. CHARLES: Your Honor, we would suggest proceeding  
3 together on those three motions because they have overlapping  
4 issues. I would intend to argue for approximately 20 minutes,  
5 and then Ms. Teller would argue for the additional five.

6 THE COURT: Okay. Is there any objection to that?

7 MS. JEFFCOTT: No, Your Honor.

8 THE COURT: Okay. Very good. You may proceed.

9 MS. CHARLES: Your Honor, with your permission, I do have  
10 some slides. I'd like to project those.

11 THE COURT: Okay. Make sure you don't have any -- either  
12 of the plaintiffs identified except by their initials.

13 MS. CHARLES: I do not have either identified by name  
14 given their age. I have initials.

15 THE COURT: Okay. Good.

16 THE COURTROOM ASSISTANT: Which side are you hooked up  
17 to? Oh, the podium.

18 MS. CHARLES: Yes. There's only one.

19 THE COURT: All right. We have now figured out how to  
20 display a PowerPoint. You may proceed.

21 MS. CHARLES: Thank you.

22 Good afternoon, Your Honor. Amber Charles on  
23 behalf of the Meta defendants. And thank you for your time  
24 here today. We know you're dealing with a lot of motions in  
25 this case, and we appreciate the opportunity to be heard on  
26 these specific cause motions given their importance to the case  
27 and the critical nature of the mental health harms at issue.

28 I will be discussing defendants' motion to

1 exclude Stuart Murray, Dr. Stuart Murray, in the R.K.C. matter  
2 as well as Dr. Kara Bagot in both the R.K.C. and  
3 K.G.M. matters. As I mentioned earlier, my colleague  
4 representing Snapchat will have additional argument related to  
5 Dr. Bagot.

6 Plaintiffs offer Dr. Bagot and Dr. Murray for the  
7 opinion that each plaintiff suffers from various diagnosable  
8 medical conditions, many conditions that are not present in any  
9 medical records produced in this case and have never been  
10 diagnosed by any treating physician but, instead, are diagnosed  
11 for the first time in these expert opinions. You can see these  
12 diagnoses here for R.K.C., in addition, in the case of  
13 Dr. Bagot, who is the sole specific cause expert in K.G.M. a  
14 similar diagnosis.

15 We've moved to exclude these opinions as  
16 unreliable on a number of bases that are laid out in our  
17 papers. Given time here today, we will stand on the papers for  
18 several of those arguments, of course, subject to any questions  
19 the Court may ask.

20 In particular, we have made certain  
21 Section 230-related arguments, effectively, that Drs. Murray  
22 and Dr. Bagot failed to distinguish between features and  
23 content in her arguments. We have also made the point that  
24 Drs. Murray and Dr. Bagot failed to conduct any independent,  
25 specific analysis and instead analyzed social media as a whole.  
26 Those are critical issues, but given I know Your Honor has  
27 heard them in a number of contexts, we will stand on the papers  
28 there subject to any questions and focus our argument elsewhere

1 today.

2 MS. MCCONNELL: Your Honor, I apologize, but the name is  
3 on the screen. The last name is on the screen on the left.

4 THE COURT: Okay. You'll have to take that slide down.  
5 Move on to the next.

6 Thank you, Ms. McConnell.

7 MS. CHARLES: Thank you for that. I apologize.

8 Turning to the substance of Dr. Murray's and  
9 Dr. Bagot's reports, there are four main points to address  
10 today. The first that runs through both reports is a  
11 fundamental methodological shortcoming that's common to  
12 Dr. Murray and Dr. Bagot. And that is that Drs. Murray and  
13 Bagot rely merely exclusively on their own report of  
14 recollected statements made to them by plaintiffs in the course  
15 of unrecorded, private interviews which no contemporaneous  
16 notes or transcript were provided. And what this creates,  
17 which is prohibited under California law, is effectively a  
18 black box analysis where Dr. Murray and Dr. Bagot are offering  
19 opinions that cannot be tested because the basis for their  
20 opinions is only their own recollection of what plaintiffs said  
21 to them.

22 And, critically, our argument is not that  
23 clinical interviews are per se improper, and our argument is  
24 not that there's any legal requirement for a verbatim  
25 transcript. Rather, as established by Onglyza and reflected in  
26 Smith, there's a fundamental principle underlying Sargon that  
27 in order to test liability, there has to be a common  
28 understanding of the inputs and the facts that are considered

1 by an expert. And that is necessary to determine whether the  
2 analysis of those experts' opinion are reasonable or whether  
3 there's too large a analytical gap. And it's also necessary to  
4 determine the reliability of their methodologies in terms of  
5 understanding whether they have cherry-picked data as opposed  
6 to offer a complete presentation of data.

7 For example, in the context of quantitative  
8 model, unless you understand what numbers were input and what  
9 numbers were excluded, you can't test the formulas. Now,  
10 plaintiffs say here, of course, that psychiatry is more  
11 qualitative, but that does not lessen the rigor that is  
12 required under Sargon. And so this sort of black box analysis  
13 fundamentally hides the bases for the opinions and prevents  
14 adequate testing. Both plaintiffs -- or both plaintiffs'  
15 experts acknowledge that they have proceeded in this manner.

16 THE COURT: So how would you proceed in a mental health  
17 case if there's not a requirement to record an interview?

18 MS. CHARLES: Well, certainly, you would --

19 THE COURT: More particularly, the question is what does  
20 the standard of practice for mental health practitioners  
21 require?

22 MS. CHARLES: Certainly, we believe at least  
23 comprehensive notes that provide a full assessment of all of  
24 the information asked and provided. Now, in a clinical  
25 setting, of course, practitioners typically take notes. But,  
26 here, in addition -- this is a forensic setting that's asking a  
27 slightly different question than in a clinical setting.  
28 Clinical experts may also be qualified to answer this; but, in

1 a clinical setting, you're asked to evaluate a treatment -- and  
2 establish a treatment plan. Here, they are purporting to opine  
3 on causation, and when purporting to opine on causation,  
4 understanding the inputs is critical.

5 So we -- our experts proceeded in a manner where  
6 we provided a verbatim transcript of our evaluations. Even if  
7 that is not required, certainly, comprehensive notes and all of  
8 the underlying testing data itself -- the raw data, not the  
9 expert's analysis of it -- is required.

10 Dr. Murray, for instance, he performed certain  
11 tests. And we asked, "Do you actually have the numerical  
12 scores of those tests?" And he said, "Well, I evaluated them;  
13 and, effectively, my report summarizes them. They became my  
14 report." But that's not the same as actually providing the  
15 underlying information.

16 Dr. Bagot is similar. We asked her, "Did you  
17 record?"

18 "No, I didn't record."

19 "Do you know if there's a transcript?"

20 "No."

21 "Do you have a list of the questions you asked?"

22 And she said, "Well, they're sort of reflected in  
23 the responses."

24 But her report also doesn't contain a list of  
25 responses. Her report contains, effectively, her opinions. So  
26 she took these inputs; she analyzed them; and then she provided  
27 an assessment of what she believed was important. But that's  
28 different than providing the underlying data as a whole. And

1 this effectively sets an opinion that is built on shifting  
2 sands. We cannot know the basis, so we cannot test the  
3 liability.

4 Now, one of plaintiffs' responses is that their  
5 reports are comprehensive, that anything in the report is  
6 effectively -- or anything discussed in this interview is  
7 effectively in their report. But we were able to identify in  
8 deposition multiple instances where that was not true, where  
9 there are instances where topics of all the key alternative  
10 cause topics such as K.G.M.'s experience with parental  
11 bullying, K.G.M.'s experience with siblings who underwent  
12 health issues, R.K.C.'s mother's disruption from the family due  
13 to an imprisonment -- we asked, "Did you discuss those?" And  
14 the expert said, "Yes, we did."

15 And we have reviewed their reports, and each time  
16 there's no reference to discussion of those potential  
17 alternative causes in the report. And that underscores here  
18 what we believe is indicative of cherry-picking that we cannot  
19 fully test given the black box nature.

20 The second issue I want to discuss is Dr. Murray  
21 and Dr. Bagot both use unreliable criteria to assess social  
22 media addiction. Now, we recognize, Your Honor, that you have  
23 already ruled that an expert who diagnoses a plaintiff with a  
24 disorder not recognized in the DSM-5, that is not sufficient  
25 basis alone for exclusion. And we do not intend to reargue  
26 that here, and we preserved that issue.

27 But what we would -- we don't read your order as  
28 indicating there's any sort of end run around the reliability

1 metric that underscores Sargon. Rather, when any expert  
2 diagnoses a medical condition, whether recognized in the DSM or  
3 not, it is critical that they use a reliable methodology to do  
4 so. And, here, both experts have failed to identify such a  
5 reliable methodology.

6           They indicated that they utilized scales and  
7 assessments that considered and borrowed from other substance  
8 use disorders such as gaming -- internet gaming disorder.  
9 Well, internet gaming disorder, as I'm sure Your Honor has  
10 heard, is not in the DSM-5. It's in an area of conditions for  
11 further study that specifically notes these proposed criteria  
12 should not be intended for clinical use. And so borrowing  
13 criteria that are not intended for clinical use and  
14 extrapolating them to diagnose an unrecognized disorder is not  
15 reliable. It's taking something that's not recognized as  
16 reliable and extrapolating it further.

17           This is indicative of the scales that plaintiffs'  
18 experts state they used. Dr. Murray used something called the  
19 Social Media Disorder Scale, the SMD Scale. But the SMD Scale  
20 itself is built on that same cross-reference to internet gaming  
21 disorder and other criteria that are not intended for clinical  
22 use.

23           Moreover, the manner in which these tests were  
24 applied is unreliable. They were completed outside of  
25 Dr. Murray's presence. You can see in the instructions social  
26 media is defined very broadly to include things like web blogs,  
27 forums, Twitter.

28           And, moreover, plaintiffs' response says, "Well,

1 there's also a second questionnaire that R.K.C. filled out  
2 about social media use." But that questionnaire is not  
3 diagnostic and does not purport to be diagnostic. It's a  
4 collection of self-reported symptoms.

5 Dr. Bagot's use of scales is similar. We asked  
6 for the testing instrument she applied. This on the screen is  
7 what we were provided. Now, there's four pages of this. It's  
8 a six-question test and then, for R.K.C.'s father, a  
9 90-question test. These tests, again, were completed outside  
10 of Dr. Bagot's presence. She did not offer any common  
11 understanding to the plaintiff about how to define social media  
12 addiction.

13 Moreover, nowhere in her report is there any  
14 explanation of any methodology she utilized to validate or  
15 assess these results. In fact, when asked, "What scale should  
16 you use, and how many positive or negative answers do you need  
17 for a diagnosis?" she said, "I can't give you a specific number  
18 because there's many different scales that people utilize."

19 Remaining on testing instruments, there is a  
20 Dr. Murray-specific issue that I do want to raise to the Court,  
21 which is that he also misused testing instruments. And this is  
22 specific to Dr. Murray because he utilized additional tests  
23 that Dr. Bagot did not use. He utilized, for instance, an  
24 eating disorder examination questionnaire, the EDE-Q; the  
25 Social Media Use Scale, which is the self-report I referenced  
26 earlier; and at the bottom is a panic scale, what you use to  
27 diagnose anxiety.

28 Now, on the face of these instruments, they are



1 validated for a limited time period. When they were designed,  
2 the individuals who designed them put a limitation on their  
3 reliable use. You can see here, for instance, the EDE-Q is  
4 only intended to be used for 28 days; the Social Media Use  
5 Scale only for seven days.

6 Well, Dr. Murray appended a cover page when he  
7 provided these to plaintiffs, and that cover page told them  
8 expressly to disregard the intended validated use. He said,  
9 "Instead of basing your answers for symptoms over the last week  
10 or month, base them at the time of your maximum symptoms." In  
11 R.K.C.'s case, that was over a year prior. And this, again,  
12 violates Sargon because you are taking tests, and you are  
13 applying them in an unreliable manner contrary to expressly how  
14 they were designed to be used.

15 Compounding this is that although R.K.C. is 14,  
16 Dr. Murray applied, for example, an adult EDE-Q. And the  
17 response in plaintiffs' opposition is, "Well, he modified that  
18 adult test." But that doesn't solve the issue; it compounds  
19 it. So we have a test that was improperly applied  
20 retrospectively, improperly applied to an age group it wasn't  
21 validated for. And then we have on top of that this same black  
22 box issue of Sargon modifications that we don't know, that we  
23 cannot assess, and that there is no basis in the report for us  
24 or you to determine the reliability of it.

25 Plaintiffs' other argument is, "Well, these were  
26 only confirmatory. The tests were used to strengthen and  
27 confirm opinions. They were not -- there was also a clinical  
28 therapy done." Well, respectfully, again, Sargon doesn't

1 create an exception where you can use an unreliable methodology  
2 to support your opinions as long as there's something else.  
3 Presenting these test results to the Court would violate  
4 Sargon. They would give the imprimatur of expert reliability  
5 to tests that are used improperly and directly contrary to the  
6 instructions.

7 The final point specific to Dr. Bagot, in her  
8 reports, she expressly stated that she conducted a differential  
9 diagnosis. At her deposition when we asked, "How did you  
10 conduct that differential diagnosis?" she corrected herself and  
11 said, "I did not." She did something she called a mechanistic  
12 analysis, which, as far as we could tell in the deposition,  
13 effectively meant a clinical interview where she looked at the  
14 plaintiffs and she reached conclusions.

15 Now, in her deposition, Dr. Bagot said, "I  
16 recognize all of these alternative causes -- bullying, learning  
17 disabilities, familial strife, familial disruption -- I  
18 recognize that those have a role."

19 And so we asked her, "Can you tell us what is the  
20 breakdown? How do you quantify? How do you determine  
21 causation as opposed to something else, something short of  
22 that?" And she replied, "Well, in a clinical perspective, we  
23 don't give anyone breakdowns of how much anything caused the  
24 diagnosis."

25 In a clinical setting, that may well be  
26 appropriate. But, here, the question that Dr. Bagot intends to  
27 opine on to the jury is one of causation. And California law  
28 is clear that it is not enough to identify a slate of potential

1 causes and simply choose one. There has to be a reliable  
2 method, a differential diagnosis to rule out the other causes.  
3 And that's what's missing here.

4 We also asked her similarly, "How do you tell  
5 what is significant? You say social media had a significant  
6 impact, not, you know, short -- the other ones have a short  
7 list of impact, but there are alternative causes. Where is the  
8 dividing line? How do you reach that test?" And her answer is  
9 telling because she said, "What we think is a significant  
10 impact or what the person we're meeting with thinks has a  
11 significant impact, then I would say significantly contributes  
12 to something."

13 Well, that is fundamentally ipse dixit. That is,  
14 if I believe it to be significant or somebody tells me it's  
15 significant, then it is significant. And People v. Gonzalez,  
16 59 Cal.App.5th 643 tells us that's not enough. Even a  
17 qualified expert cannot offer an opinion simply based on their  
18 ipse dixit, simply based on their say-so. And that is what's  
19 done here behind the -- in the absence of any differential  
20 diagnosis.

21 I do want to save some time for my colleague, so  
22 I'll stop here unless the Court has questions.

23 THE COURT: Okay. Thank you very much.

24 MS. CHARLES: Thank you.

25 MS. TELLER: Should I need to do anything to get that  
26 working? There it goes.

27 There's a little bit of depo testimony. That's  
28 the only thing I'm going to show you today, Your Honor. If it

1 doesn't work, that's fine. We'll just move on in terms of  
2 audio.

3 Good afternoon. Faye Paul Teller from Munger,  
4 Tolles & Olson for defendant Snap Inc. In addition to the  
5 arguments that Ms. Charles raised on behalf of all defendants,  
6 we wanted to spend just a couple of minutes on Dr. Bagot's  
7 opinions regarding Snapchat because we believe they should be  
8 excluded as improper speculation.

9 As the Court may recall, the objective data for  
10 the plaintiff R.K.C. is that he used Snapchat for 3.8 minutes  
11 total prior to filing a suit. Plaintiffs' expert Dr. McCarron  
12 validated that number, and Dr. Bagot conceded in her deposition  
13 that five minutes of lifetime usage is not sufficient to cause  
14 R.K.C. the injuries he alleges -- compulsive use, depression,  
15 anxiety, and binge eating disorder.

16 (Video recording played.)

17 MS. TELLER: Dr. Bagot did not consider that data in  
18 forming her opinions. That is the case even though she had to  
19 concede the duration of access to the platforms is at least a  
20 factor in assessing addiction. You'll see that at page 607 of  
21 her deposition.

22 So what evidence did Dr. Bagot rely on about  
23 duration of usage to make her diagnosis? In her report, she  
24 stated that R.K.C. reported Snapchat usage of eight hours a  
25 day. That's in paragraph 30 of her report. But when shown  
26 that report -- the deposition testimony that was cited there,  
27 which was to R.K.C.'s deposition, she conceded that she had  
28 miscited that information and was not able to offer any other

1 evidence that plaintiff had used Snapchat for eight hours a day  
2 at any point.

3           Instead, Dr. Bagot apparently relies on vague  
4 statements from R.K.C., for example, that he used friend's  
5 phone at lunchtime and that accounts for sufficient usage to  
6 make her diagnosis. That's at page 649 of her deposition.

7           This isn't just a black box as it refers to  
8 Snapchat. There's just zero information we have from Dr. Bagot  
9 demonstrating the usage that is alleged to have caused his  
10 injuries here. The notion that she could conclude that  
11 R.K.C. became addicted to Snapchat based on this, on these  
12 nonspecific statements such as his friend's phone, is pure  
13 speculation; and we do not believe it is a valid basis for an  
14 expert opinion about addiction.

15           Instead, these opinions are result-driven --  
16 results-driven. Dr. Bagot ignores all objective evidence about  
17 plaintiff's usage that is contrary to her conclusion and relies  
18 entirely on plaintiff's own self-serving vague statements  
19 during an interview that was not recorded, not transcribed, and  
20 for which there are no notes. Dr. Bagot's refusal to consider  
21 the objective data and disavow her opinions that Snapchat  
22 caused or exacerbated plaintiff's injuries only proves her  
23 opinions are nothing more than seeking to support the results  
24 that she is looking for.

25           For these reasons, Snapchat asks that the Court  
26 exclude her opinion as to R.K.C. Thank you.

27           THE COURT: Thank you.

28           All right. I'll hear from plaintiffs now.

1 MS. JEFFCOTT: May it please the Court, Your Honor, my  
2 name is Emily Jeffcott, and I'm here on behalf of plaintiffs  
3 R.K.C. and K.G.M.

4 In denying defendants' motions for summary  
5 judgment last week, Your Honor found a triable issue of fact as  
6 to specific causation among other things. And in doing so,  
7 Your Honor relied on the plaintiffs' own testimony and, in some  
8 instances, tied it to general causation opinions that this  
9 Court had previously deemed reliable.

10 Now, the issue today is whether the specific  
11 causation opinions of Dr. Bagot and Dr. Murray meet the Sargon  
12 standard. And we respectfully submit that they do.

13 So what is the Sargon standard? And I think it's  
14 important to point out that, under Sargon, an expert must  
15 employ the same level of intellectual rigor, use the same  
16 methods that are accepted in their professional discipline.  
17 And, here, Dr. Murray and Dr. Bagot are both qualified --  
18 extensively qualified in the field of adolescent psychiatry,  
19 and they followed the same approach that they use in their  
20 normal clinical practice.

21 Now, Dr. Bagot evaluated R.K.C. and K.G.M.,  
22 whereas, Dr. Murray only evaluated R.K.C. And as part of this  
23 evaluation, they interviewed the plaintiff and the plaintiff's  
24 caregiver. They also reviewed their depositions. They  
25 reviewed the depositions of their mental health providers,  
26 other treaters, and family members. They also reviewed  
27 records -- medical records, school records, and certain other  
28 records ordered by defendants -- and they applied diagnostic

1 tools.

2 Now, drawing on all of that information, they  
3 assessed the plaintiffs' symptoms, identified and ruled out  
4 potential diagnoses, and then evaluated the causes and  
5 contributing factors underlying the plaintiffs' condition.

6 Now, from this, both Dr. Murray and Dr. Bagot  
7 concluded that R.K.C.'s usage of defendants' platforms, and  
8 specifically his usage of certain features of defendants'  
9 platforms, caused him to become addicted to social media. And,  
10 from this addiction, he began to suffer other mental health  
11 harms like sleep disturbances, anxiety, depression,  
12 body -- binge eating, and suicidal ideations.

13 Now, with respect to K.G.M., Dr. Bagot similarly  
14 concluded that K.G.M.'s usage of certain features on  
15 defendants' platforms caused her to become addicted to  
16 defendants' platforms, and that also caused her other mental  
17 issues -- sleep disturbances, anxiety, depression, and body  
18 dysmorphia.

19 Now, defendants raise a number of criticisms of  
20 these opinions, and I'm going to start with the black box.  
21 Despite what defendants say, the black box theory is  
22 essentially that these experts needed to record or transcribe  
23 their interviews, otherwise they're deemed unreliable. But,  
24 again, Sargon only requires that experts follow a methodology  
25 accepted by the professional discipline.

26 And, here, defendants don't dispute that these  
27 experts followed their standard clinical practice in how they  
28 conducted these interviews. And so defendants argue that, in

1 litigation, these clinicians must deviate from how they  
2 normally do things from their accepted practice and transcribe  
3 these sessions with plaintiffs. But that is not what Sargon  
4 requires. And none of the cases that defendants cite support  
5 imposing this new elevated standard.

6 All but one of these cases are, on their face,  
7 easily distinguishable. In Gonzalez, the gang expert had no  
8 evidence tying the robberies to gang affiliations besides his  
9 own say-so. Onglyza is a general causation case. Hutchinson  
10 involved an expert who tried to calculate a person's height  
11 based on video stills using a process nobody had ever  
12 evaluated. That's a black box.

13 Now, the only case that's marginally relevant is  
14 Amos v. Rent-A-Center, which is a nonbinding Florida decision.  
15 But the problem wasn't just the absence of a transcript. It  
16 was the expert's wholesale lack of a methodology, which she  
17 acknowledged. She took no notes of her interviews with the  
18 plaintiffs, failed to interview other family members about  
19 whether or not the plaintiffs had harm, didn't review any  
20 collateral records, ignored alternative causes, and wasn't  
21 really even qualified to render the expert opinion in the case.  
22 That's nothing like what we have here.

23 Dr. Murray and Bagot follow the same methodology  
24 they used in seeing patients. Furthermore, their reports are  
25 detailed and specific. They're filled with symptom histories.  
26 There's a timeline; there are summaries of interviews; there's  
27 quotes from the interviews.

28 Defendants' claim that they can't tell what



1 questions were asked is simply not credible. The reports make  
2 the scope and substance of these evaluations unmistakably  
3 clear. And defendants also had hours upon hours to question  
4 these experts about the opinions and about what was said in  
5 these interviews.

6 Now, moving to expert-specific issues, I'm going  
7 to start with Dr. Bagot. The primary argument raised by  
8 defendants is that she disclaimed doing a differential  
9 diagnosis. This is incorrect and really a matter of semantics.  
10 And regardless of what you call it, it was reliable.

11 So let's go back to what she said in her  
12 deposition. What Dr. Bagot explained is that the differential  
13 diagnosis represents the outcome of that diagnosis. It's the  
14 sheet of paper that has the diagnosis listed on it. It's the  
15 psychiatric conditions that best fit the plaintiffs'  
16 presentation after others have been ruled out.

17 And she specifically noted that causation is not  
18 addressed on the differential diagnosis. It's that sheet of  
19 paper that lists out the diagnosis. The causation is addressed  
20 through what she refers to as a mechanistic analysis that  
21 evaluates the mechanism of the disease by looking at the  
22 interviews with the plaintiff -- or the patient, the patient's  
23 caregivers, reviewing the records, and assessing the  
24 contributing factors.

25 Now, at the end of the day, it doesn't matter  
26 whether you call this a differential diagnosis or a mechanistic  
27 analysis. What matters is that she applied a reliable,  
28 accepted approach to evaluating plaintiffs, and she did that

1 here.

2 Now, defendants also argue that her differential  
3 diagnosis was flawed because she failed to identify in her  
4 report certain alternative causes, that she didn't take them  
5 from the -- excuse me -- that she didn't take them from the  
6 interview. But that too is incorrect. They reference the  
7 alleged domestic abuse in the home. They also reference her  
8 sister's psychiatric issues. Those are discussed and  
9 identified in the report. She also, for both K.G.M. and  
10 R.K.C., say that she used a circular logic to identify what the  
11 contributing factors were and what was substantial.

12 But I think context is important in that  
13 circumstance. And what defendants were asking of her in her  
14 deposition wasn't about substantial contributing factor and how  
15 it applies across the spectrum of factors. What they were  
16 asking her was to quantify. They were saying, "Can you look at  
17 any one of these factors and tell me what percent applied to a  
18 diagnosis?"

19 But there's nothing under Sargon or its progeny  
20 that requires her to do that. That's not what psychiatrists  
21 do. They don't say a learning disability is 2 percent of the  
22 reason a patient has depression. And as Dr. Bagot put it,  
23 "That's just not what we do in psychiatry."

24 Defendants next argue that Dr. Bagot's opinions  
25 are unreliable because social media addiction is not listed in  
26 the DSM, and the bases for her criteria were derived from the  
27 DSM, and that that is clinically unreliable. Your Honor  
28 previously addressed this. And in finding that with respect to

1 general causation opinions that her reliance on the DSM was  
2 appropriate, or the lack of a DSM diagnosis of a social media  
3 addiction was appropriate, Your Honor pointed out that there is  
4 not a single case that says that for there to be causation, it  
5 has to be identified in the DSM.

6 Now, defendants have had another opportunity to  
7 identify such a case, and they haven't. And that's because one  
8 doesn't exist. And that's because the DSM and the ICD are  
9 guides. They're not the end all, be all on how to diagnose a  
10 patient.

11 Now, opposing counsel referenced other scales  
12 that Dr. Bagot used, and that's referencing the Bergen Facebook  
13 Addiction Scale. And the way that she applied it -- she did it  
14 verbally. She didn't hand out a checklist -- and applied  
15 those -- she gave those slides to opposing counsel as an  
16 example. And she did it verbally and incorporated the answers  
17 into her report as she was going through each factor of  
18 addiction.

19 Now, Snap's counsel brings up data usage, and  
20 they say that Dr. Bagot's opinion is unreliable because she  
21 acknowledges that five minutes of total usage of Snapchat is  
22 not sufficient. But, again, Dr. Bagot did not rely on  
23 defendants' data for a reason. And there's two reasons. One,  
24 she's not a data expert, and she acknowledged that and that she  
25 relied on plaintiffs' own data expert who said their data is  
26 incomplete. It's not -- it's not the totality of what we look  
27 at.

28 And the second and equally important thing is

1 that that's not what she does in her standard practice. She  
2 doesn't rely on data from defendants. That's not what she has  
3 access to. And, more importantly, she doesn't rely on it  
4 because it's not important to her. She relies on what the  
5 patient, their family, their records, and their treating  
6 patients say about usage patterns and effects.

7 And she explained this at her deposition. She  
8 testified that quantitative data doesn't add much because what  
9 clinically matters is how and when the platforms are being  
10 used. And how she gets about that with a patient is that she  
11 asks them, "What time of day are you using it? Are you using  
12 it at night? Before you get up in the morning? At school?  
13 When you get home from school? Right before bed?"

14 That's the type of information that matters to  
15 her because that assesses the impact on life. So raw data  
16 numbers, they don't provide her the information that helps her  
17 diagnose and treat patients. And she did the same for  
18 plaintiffs here.

19 Now, defendants argue that, essentially,  
20 Dr. Bagot just paired what R.K.C. and his father said about his  
21 usage, that the number they stated in the interview,  
22 eight hours, is somehow unreliable. But, again, she evaluated  
23 R.K.C. and his father for malingering. That was part of her  
24 analysis. And Dr. Bagot also corroborated her findings.

25 In their brief, defendants imply that Dr. Bagot  
26 didn't review the testimony of Makayla Fedd. Well, in her  
27 report, she identified that she did review the deposition  
28 testimony of treatment providers, and on her materials review

1 list is included the testimony of Ms. Fedd. And Ms. Fedd is  
2 R.K.C.'s treating therapist. And she also cites to exhibits  
3 from Ms. Fedd's deposition in her report. That is something  
4 she considered and she used to corroborate her findings.

5 Now, turning to Dr. Murray whose opinions only  
6 relate to R.K.C. They also take issue with his differential  
7 diagnosis saying that he failed to consider alternative causes.  
8 But he did so. He looked at each and every one and identified  
9 the basis for which and how they apply to his overall  
10 psychological well-being, and he weighed them. And, here, the  
11 issue is that defendants are simply unhappy with his  
12 conclusions. But that's not a proper Sargon challenge. That  
13 goes to weight, not to reliability.

14 Now, defendants also claim that Dr. Murray's  
15 opinion is unreliable because he didn't rely on plaintiff's  
16 data usage. But just like Dr. Bagot, he's not a data expert;  
17 and he acknowledges such. He relies on what he typically does  
18 in his practice. He uses the interviews, the records, the  
19 collateral information, not defendants' data.

20 In their briefing, they imply that Dr. Murray did  
21 not evaluate R.K.C. for malingering. But he did, and he said,  
22 "I'm trained to do this. I'm trained to assess malingering."  
23 He explained that R.K.C. was difficult to draw symptoms from.  
24 He was not somebody that was eager to exaggerate or dramatize  
25 his condition and that, to the contrary, he was worried and  
26 concerned about not wanting to burden his family with his  
27 condition. He too also corroborated what he saw with evidence  
28 from the record and Ms. Fedd's testimony.

1 Now, diagnostic tools -- defendants raise the  
2 same argument as they do with Bagot with respect to DSM and  
3 ICD. And I won't repeat the argument that I raised earlier,  
4 but I will acknowledge that Dr. Murray at his deposition  
5 testified that he regularly diagnoses and treats conditions  
6 that are not formally listed in the DSM, and he does so when  
7 the clinical presentation and the research literature support  
8 doing so.

9 An example of a DSM diagnosis that didn't occur  
10 until much later is PTSD. That wasn't added to the DSM until  
11 years ago, but nobody disputes that PTSD has been around for  
12 decades and decades.

13 Now, with respect to other social media scales  
14 that he used, defendants claim he overrelied on them. And I  
15 want to be clear -- and he explained this -- these tools served  
16 as adjuncts to his interviews, a way to cross-check and  
17 contextualize what R.K.C. and his father reported. He would  
18 conduct the interview and look at the scales and see if there  
19 were any discrepancies. He did not diagnose R.K.C. based on  
20 the scales. He also didn't misuse these scales.

21 Defendants claim that certain scales were not  
22 appropriate to use with R.K.C. because he's not an adult. But  
23 the literature says you can use them with someone that's  
24 R.K.C.'s age, and Dr. Murray would have said the same had  
25 defendants asked. There is a dispute here, and this is the  
26 type of dispute that defendants can raise during their  
27 cross-examination of Dr. Murray.

28 And, Your Honor, with that, the issues raised by

1 defendants are not true methodological challenges. Dr. Bagot  
2 and Dr. Murray followed standard methods and did so at the same  
3 level of intellectual rigor demanded in their field of  
4 psychiatry. Thank you.

5 THE COURT: Thank you.

6 MS. CHARLES: May I respond briefly?

7 THE COURT: Three minutes.

8 MS. CHARLES: Thank you, Your Honor. First, on the point  
9 about the same methodology and clinical practice, Sargon does  
10 require that an expert offer a candid assessment of the facts  
11 considered and a way to test their opinions. What the analysis  
12 that was done by Drs. Murray and Dr. Bagot here consist of is  
13 offering a causation opinion, which is not something they do in  
14 their normal practice. Dr. Bagot said as much.

15 And so, here, where they are answering a  
16 different question, utilizing the fact that they may not record  
17 clinical interviews does not answer the question as to whether  
18 they have provided a sufficient basis for this Court to assess  
19 whether they candidly made the evidence. And the cases that we  
20 cited found when there was a lack of that testable data, that  
21 reliable data, you could not let an expert offer that opinion  
22 under Sargon.

23 The black box here prevents us from knowing  
24 whether the experts have cherry-picked. They certainly say in  
25 their reports and in their depositions, "I didn't cherry-pick,"  
26 but there's no way for us to know because we have no basis to  
27 go back to and look at the full picture. And Sargon certainly  
28 requires that you cannot simply ignore data that you don't

1 like. You cannot simply choose to not put it in your final  
2 report.

3 And opposing counsel indicated things like  
4 familial bullying, the sister's suicide attempt, the mother's  
5 incarceration are in the reports. Respectfully, I have not  
6 found them in any of the reports. I've looked several times.  
7 We cited this in our papers. I don't believe counsel provided  
8 any paragraph that references them, so I do not think that's  
9 correct. I think those are examples of places where  
10 plaintiffs' experts acknowledge that they talked about things  
11 with these plaintiffs but did not provide a comprehensive  
12 assessment.

13 Specific to Dr. Murray --

14 THE COURT: Ms. Jeffcott did offer paragraphs of the  
15 report. Ms. Jeffcott did offer paragraphs of the report for  
16 both -- for the analysis of both plaintiffs.

17 MS. CHARLES: Correct. There are paragraphs that purport  
18 to discuss alternative cause. I'm sorry if I was nonspecific.

19 I believe Dr. Murray does not reference in his  
20 report specifically the incarceration that he says he spoke  
21 about, and Dr. Bagot does not reference the sister's suicide  
22 attempt. So that -- those are examples.

23 But, yes, Dr. Murray, for example, does have  
24 three paragraphs, paragraphs 127 through 129, that comprise his  
25 entire section on purported analysis of alternative causes. He  
26 does identify some alternative causes there. He doesn't  
27 provide any assessment of why he chooses to disregard them  
28 other than his saying, "I don't think they had an impact." But



1 you are correct, they are there.

2 Briefly on his scales, there is an adolescent  
3 version of the EDE-Q. The EDE-Q used is not validated for  
4 individuals under 16. Dr. -- R.K.C. is 14, and Dr. Murray had  
5 him apply it retroactively to an earlier age. I don't believe  
6 Ms. Jeffcott said that that is a way that he utilizes that test  
7 in clinical practice. And if that is a way that he utilizes  
8 that test in clinical practice, I don't believe that makes it  
9 acceptable where the study -- as it's designed, the tool is not  
10 intended for that sort of use.

11 And Ms. Jeffcott also said those scales were used  
12 to corroborate. Well, "used to corroborate" means they were  
13 part of his methodology and their unreliability. It means they  
14 should not be presented to the jury in that manner.

15 We would ask that you exclude Dr. Bagot and  
16 Dr. Murray's opinions on specific causation in R.K.C. and, in  
17 the case of Dr. Bagot, K.G.M. Thank you for your time.

18 THE COURT: All right. Thanks very much.

19 Okay. Let's move on, then, to the specific  
20 TikTok argument with regard to expert Meredith McCarron.

21 MR. SENTENAC: I also have a handful of slides. May I  
22 approach, Your Honor?

23 THE COURT: Not in the well.

24 MR. SENTENAC: I'm sorry?

25 THE COURT: Not in the well. Go that way. Give it to  
26 Ms. Miro.

27 Okay. I have them. And if you can plug in,  
28 that's fine. Otherwise, I have it in front of me.

1 MR. SENTENAC: And if -- is it okay to post the slides,  
2 Your Honor?

3 THE COURT: Yes, you may.

4 MR. SENTENAC: Thank you.

5 THE COURTROOM ASSISTANT: I don't think you're plugged  
6 in.

7 MR. SENTENAC: I'm sorry?

8 THE COURTROOM ASSISTANT: There you go.

9 MR. SENTENAC: Sorry about the technical difficulty.

10 THE COURT: It's okay.

11 MR. SENTENAC: Mark Sentenac on behalf of the TikTok  
12 defendants. Thank you for the time to be here today,  
13 Your Honor. We wanted to appear even briefly to emphasize a  
14 very important issue specific to TikTok.

15 And this is why we are here. In particular, this  
16 is a slide plaintiff showed you at the October 28 motion for  
17 summary judgment hearing. And they would like Ms. McCarron,  
18 plaintiffs' data analysis expert, to offer opinions supporting  
19 this slide regarding the number of interactions that plaintiffs  
20 had on the TikTok platform.

21 But these numbers are fundamentally wrong. And  
22 it's not a matter of cross-examination or a difference of  
23 opinion or a battle of the experts. These numbers resulted  
24 from fundamental errors in Ms. McCarron's processes, and it  
25 would be deeply, deeply prejudicial to allow plaintiffs to  
26 display them in an opening argument or to allow Ms. McCarron to  
27 offer those opinions to the jury at trial.

28 As you can see -- let's just take a brief step

1 back. Ms. McCarron would like to offer the opinions that  
2 TikTok's time spent data, separately produced data is  
3 inaccurate because it doesn't track the number of interactions  
4 the plaintiff had on the platform and offer raw totals like we  
5 saw in the last slide regarding the number of interactions that  
6 plaintiff had on the TikTok platform.

7 But Ms. McCarron made massive error in  
8 calculating the number of interactions underlying this. As you  
9 can see here, she counted -- double counted data related to the  
10 very same interaction type. For example, a video view --

11 THE COURT: You say, "as you can see here." I don't --  
12 walk me through this.

13 MR. SENTENAC: What's displayed here are interactions  
14 data that were produced to the plaintiffs in this litigation.  
15 And there are a number of different categories of data that  
16 were produced, including a number of data related to video  
17 views, interactions that Ms. McCarron calculates in coming up  
18 with that total number on the first slide -- likes, messages,  
19 shares, and, in this case, a video view.

20 THE COURT: It's Greek to me. If you want me to  
21 understand it, you need to walk through line by line: "Okay,  
22 let's look at the IP session history. What this is trying to  
23 show is X." I --

24 MR. SENTENAC: Thank you, Your Honor.

25 THE COURT: I've never seen -- okay.

26 MR. SENTENAC: Yes. No, no, no. Thank you very much.

27 The very top of this screenshot is a copy of  
28 Ms. McCarron's backup data that was produced to us prior to her

1 deposition, and it identifies the snapshot data that she used  
2 to calculate the number of interactions by plaintiffs on the  
3 TikTok platform. And as you can see here, there's IP session  
4 history which shows a date stamp related to the date in which  
5 the interaction occurred, an IP address, and the country. And  
6 you can see at the exact same time on the exact same day to the  
7 second, there's also metadata produced related to a video.

8           That's the public, private, and deleted videos.  
9 And it identifies a video by a serial number, a unique  
10 identifier related to a video at the exact same -- on the exact  
11 same day at the exact same time at the exact same second. And  
12 then below that is the video IP again, a related video  
13 interaction data related to the exact same video with the exact  
14 same video ID, unique identifier, happening at the exact same  
15 time on the exact same day at the exact same second.

16           And you can see that the IP session history,  
17 which is data reflecting metadata related to the user's section  
18 on the platform, matches exactly the video IP for the exact  
19 same time ending. And in calculating her interactions, as  
20 Ms. McCarron testified at her deposition, she counted all three  
21 of these as separate interactions in calculating the number of  
22 interactions plaintiffs had on the platform.

23           And the same is true next. There's a different  
24 type of video interaction data. This is video browsing  
25 history. At the top is Ms. McCarron's backup data reflecting  
26 what she included in calculating the number of interactions on  
27 the platform. And below it, you see the same date time stamps  
28 at the exact same time for a video play.

1 Does that help clarify things or --

2 THE COURT: What does IP stand for?

3 MR. SENTENAC: Internet protocol.

4 THE COURT: Internet --

5 MR. SENTENAC: Protocol. Protocol.

6 THE COURT: Protocol. What does that mean, internet  
7 protocol session history?

8 MR. SENTENAC: This is data -- this is metadata related  
9 to an interaction on the platform. This is the data we're  
10 talking about. I know it's been discussed at very ambiguous  
11 high levels about what it is that the user data --

12 THE COURT: I'm asking you to explain it to me.

13 MR. SENTENAC: That's right. But in the nitty-gritty for  
14 the interaction data --

15 THE COURT: That's what you're asking me to look at here  
16 is the nitty-gritty to see that there's double counting, so you  
17 have to help me understand what these things are.

18 MR. SENTENAC: Absolutely. And so this is -- this is  
19 metadata related to an individual user's session on the  
20 platform, metadata related to the public, private -- this is a  
21 user's video, and then video IP is what -- an IP address that  
22 is an identifier for a device that is -- or the internet  
23 protocol's an identifier related to the user that used the  
24 device. So that's why they match. The IP session history and  
25 the video IP match.

26 And I think the most telling thing about all of  
27 this, besides the exact same video identifier matching and  
28 the -- is the date and time stamps. These are -- this is the

1 same account for the same user with something being counted  
2 three times despite happening at the exact same second.

3 And perhaps I can simplify this even more,  
4 Your Honor, which is we asked Ms. McCarron at her deposition if  
5 she knew what IP session history was; what public, private,  
6 deleted videos -- what these interactions are and whether she  
7 knows if what these three events are showing are the same  
8 interactions by a single plaintiff. And if you'll excuse me,  
9 I'll skip ahead one slide.

10 She doesn't know. She doesn't know. She  
11 included everything after, perhaps, looking at some exemplar  
12 data deduplicating it only based on the title of the document  
13 that was given to her, according to her testimony, and she  
14 doesn't know what was actually disclosed in the documents that  
15 were provided her. She's not an expert in device data as you  
16 can see next to her. She doesn't understand the details of  
17 these things either.

18 And notwithstanding that, she was -- they would  
19 like plaintiffs -- plaintiffs would like her to be able to come  
20 to the jury and explain how many times plaintiffs interacted  
21 with the platform. And I submit to Your Honor that the events  
22 we showed in the previous slide all happening at the exact same  
23 second, at a minimum, are highly indicative of duplication or  
24 triplication. But it doesn't really matter because the reality  
25 is Ms. McCarron's speculating.

26 And this is important. It fundamentally impacts  
27 her opinions, Your Honor. She would like to offer the opinion,  
28 like I said, that the time spent on the data is inaccurate

1 because it -- the interactions doesn't track the time spent  
2 data that TikTok produced and the raw -- the raw numbers of  
3 course. Of course, if she is double and triple counting those  
4 things, it will massively impact how the time spent data the  
5 TikTok defendants produced relate to the interactions and, of  
6 course, it would substantially inflate the number of  
7 interactions a plaintiff had on the TikTok platform.

8 As you can see in the next slide here, we roughly  
9 estimate that Ms. McCarron's numbers -- although we've never  
10 been produced the details of all of how she arrived at some of  
11 these things, we roughly estimate at least a 40 percent error  
12 rate, that she's inflated her numbers by almost 40 percent just  
13 considering this duplication issue, which again, of course,  
14 would be substantially -- it would be very prejudicial to allow  
15 her to produce such incorrect numbers.

16 THE COURT: What's the correct number?

17 MR. SENTENAC: It -- I don't have that here today for  
18 you, and I'm sorry. But Ms. McCarron hasn't presented how she  
19 arrived at those numbers to us, and I don't -- so I don't  
20 have -- I don't have a basis to say what the exact right number  
21 is according to her methodology.

22 The last thing I think is important to understand  
23 is this doesn't -- this number doesn't reflect the number of  
24 other errors we highlight in our briefing, including -- not  
25 including certain time spent data, double counting certain time  
26 spent data, including messages received that didn't include,  
27 you know, an interaction by the plaintiffs themselves with the  
28 platform. There's a number of other foot faults that

1 Ms. McCarron made that also leave her opinions unsupported.

2 And just to go back to the -- skip ahead to this  
3 slide again, I do think it's important to emphasize the fact  
4 that she doesn't -- she admits she's not an expert in device  
5 data. So Ms. McCarron does not have the requisite foundation  
6 or the requisite expertise.

7 THE COURT: If I may. Again, excuse me if I'm off base  
8 on this, but the slides that you presented with the charts on  
9 it, that's not device data; right? Device data is -- you're  
10 using that to mean iPhone data; right?

11 MR. SENTENAC: Well, to be clear, I -- this is all device  
12 data. This is an application on someone's phone that is  
13 transmitting data back to TikTok. And the interactions between  
14 TikTok servers and someone's device is device data.

15 That's -- I don't understand -- but, plainly,  
16 Ms. McCarron is not an expert in that, and I think the errors  
17 that -- the really significant, fundamental, and prejudicial  
18 errors reflect that. And we would respectively request that  
19 Your Honor exclude her opinions, grant defendants' motion,  
20 particularly as to TikTok defendants.

21 And that's all I have unless you have any other  
22 further questions.

23 THE COURT: Thank you.

24 MR. MANDICH: Good afternoon, Your Honor. Marc Mandich  
25 for the plaintiffs. And I would also like permission to  
26 publish some slides, although in light of my targeted time, I  
27 don't know that I need them; but in the event I do and have  
28 time for them, do I have the Court's permission?



1 THE COURT: Sure.

2 MR. MANDICH: Thank you, Your Honor.

3 So with all due respect to my opposing counsel,  
4 he's very confused on the points he's arguing. Your Honor was  
5 correct, device data is a separate subject entirely, and -- oh,  
6 I haven't plugged it in yet. Sorry. Device data and her  
7 admission she's not an expert in device data is entirely  
8 unrelated to the interactions, and the defendant produced data  
9 that she analyzed primarily. So Your Honor was entirely  
10 correct about that.

11 Another thing I'd like to point out is the two  
12 arguments that TikTok had indicated they wanted to argue today,  
13 only one of them was argued to you. Conspicuously absent from  
14 their argument was their point about her supposed error in  
15 using UTC instead of the plaintiff user's local time zone. You  
16 didn't hear about any of that for a reason.

17 I don't know if TikTok looked into this before  
18 they made the argument or if they were just trying to play  
19 gotcha, but Ms. McCarron did go back after they made that  
20 representation to this Court, and the number of errors jumped  
21 from 15 percent -- over 15 percent to over 20 percent when she  
22 put in the plaintiff user local time zones.

23 The other points my opposing counsel made --

24 THE COURT: What error rate?

25 MR. MANDICH: The number -- the number of actions outside  
26 of sessions. So if -- I'll use the slide for this. I'll skip  
27 ahead a little bit. Give me a second.

28 THE COURT: So the number of actions that she identified

1 outside of session increased when she put in the correct time  
2 zone?

3 MR. MANDICH: Yes.

4 THE COURT: What your representation is, is that in the  
5 opposition to the motion?

6 MR. MANDICH: Your Honor, in the opposition, we didn't  
7 have that in there because TikTok had never clarified that the  
8 proper time zone used was plaintiffs' user local time. We had  
9 gotten contradictory information from TikTok on that.

10 Through months and months of meet-and-confers, as  
11 this Court is well aware, the data analysis has been a mess  
12 because defendants have not been forthcoming with information.  
13 In this case, it was contradictory information we got from  
14 TikTok earlier which was -- as the other defendants, UTC is the  
15 appropriate time zone to use.

16 On the first point on the double counting,  
17 Ms. McCarron asked and participated in meet-and-confers -- and  
18 my slides aren't coming up, but that's no matter -- for a data  
19 dictionary for definitions of what their categories are.  
20 Because much like it was to Your Honor, TikTok's categories are  
21 not just readily apparent and including data analysis. The  
22 data dictionary was required to interpret another data  
23 company's definitions and terms for what they use. They were  
24 not forthcoming with that information, and then they played  
25 this gotcha game over double counting.

26 Events IP data was also not duplicative of video  
27 browsing history, which is the two categories they talk about.  
28 I do not know why this is not working. But in the case of

1 R.K.C. --

2 THE COURT: Well, I have -- I have your slide if you want  
3 to reference.

4 MR. MANDICH: Yeah. The second slide, Your Honor. In  
5 their brief, they suggest these data points are identical. For  
6 R.K.C., we had video views totaling 115, and his events data  
7 was over 18,000 events. And if you -- if you then take that  
8 argument and surmise, "Okay. Well, they meant that events is  
9 inclusive of video use," you need to define that.

10 THE COURT: Okay. I get that. But defendants are  
11 talking about total time spent on the -- on TikTok; right?  
12 That's the argument that was presented today.

13 MR. MANDICH: I apologize. I'm not following. Could you  
14 ask me again, Your Honor? What was your question?

15 THE COURT: So as I understood defendants' argument, they  
16 were arguing that Ms. McCarron had counted the number of  
17 interactions --

18 MR. MANDICH: That's right.

19 THE COURT: -- and had said that there were 385,000 plus  
20 interactions and that she had double counted; right? When you  
21 address her information that she provides -- or her opinion  
22 that she provides about events that took place outside of the  
23 time when TikTok's data showed that she was in a session,  
24 that's a different issue.

25 MR. MANDICH: That is, Your Honor. She has multiple --

26 THE COURT: Thank you. I'm not -- I'm not a total idiot.

27 MR. MANDICH: No, not at all, Your Honor. I promise you,  
28 I am more of an idiot about data than probably anyone else in

1 this room. That's why we have experts for it.

2 But the point I wanted to make about the  
3 double-counting issue, which --

4 THE COURT: What is the double-counting issue in your  
5 lexicon?

6 MR. MANDICH: So they claim that the events IP data is  
7 duplicative of the video browsing history data that they  
8 provided.

9 THE COURT: Okay.

10 MR. MANDICH: All right. And in R.K.C.'s case, as you  
11 see on that second slide, that's clearly not the case. He has  
12 115 video views, as I've highlighted there, and over 18,000  
13 events IP data.

14 And so if we were to assume then that events IP  
15 is inclusive of video use, it includes other events, other  
16 interactions besides those and she double counted 115 for  
17 R.K.C., well, still, we're scratching our heads and saying,  
18 "TikTok, explain this," as we did in meet-and-confers because  
19 if you look at K.G.M.'s it's the reverse. If video views are  
20 included within events IP, then video views should be less than  
21 events IP as it is for R.K.C. In K.G.M.'s case, you have  
22 substantially more video views than events.

23 So this is just another factor pointing to the  
24 unreliability of defendants' data -- of TikTok's data,  
25 specifically in this case. It's inconsistent across the  
26 plaintiffs. And it doesn't make logical sense, which is  
27 ultimately what Ms. McCarron's point is. There are very  
28 logical, provable inconsistencies in their data that call into

1 question the reliability of their data gathering at the  
2 individual user level. Also, the initial slide my opposing  
3 counsel shared was not Ms. McCarron's math. That was -- that  
4 was counsel's math, but that's neither here nor there.

5 They also criticize -- I think I heard my  
6 opposing counsel criticize her for having too few examples.  
7 The cherry-picking -- in the argument you just heard, they  
8 cherry-picked two or three examples that I think my opposing  
9 counsel kind of struggled to explain to Your Honor. They don't  
10 show the tens of thousands of errors.

11 But even if they had, if we looked at Slide  
12 No. 3 -- and then I'll point you to one more after that --  
13 there are multiple factors in Ms. McCarron's analysis that  
14 their arguments here do no violence to.

15 On Slide No. 3, the video views are the little  
16 blue piece. And if you were to ignore that, you still have  
17 portions where there's zero time spent with interactions,  
18 portions where there's very high time spent with no video views  
19 or events, increasing interactions with falling time spent, and  
20 principally many interactions with videos with apparently no  
21 videos viewed, a logical and provable impossibility since  
22 TikTok's a video-viewing platform. It opens to a video when  
23 you open the app.

24 If you look also at my Slide No. 9, another  
25 opinion that their arguments here do no violence to, this is  
26 within one data set. There's no cross-comparison here. This  
27 is TikTok's session data. And in all of these you see -- if  
28 you're looking at it and you look to the left where I've

1 highlighted "Session End Action Type," that other highlighted  
2 column next to "Action," it says "Session End," the only thing  
3 you should see there is "Session Start." You can't end the  
4 session you didn't start.

5           There were also, she pointed out in her report,  
6 hundreds of thousands of times you had session end and then  
7 activity on the platform -- likes, comments, shares, other  
8 interactions -- long before another session started. All of  
9 those are provable errors that make the data fundamentally  
10 unreliable, as Ms. McCarron testified.

11           So in addition to that, if you look at Slide 7,  
12 another opinion that they haven't touched on here, TikTok more  
13 so than any of the other defendants, have very short retention  
14 periods for their time spent in sessions data and  
15 notifications, all starting for R.K.C., K.G.M. and plenty more,  
16 in 2022, '23, and '24. K.G.M.'s use started in 2016 --  
17 what? -- eight years before the earliest event -- six years  
18 before the earliest event. R.K.C., five years before the  
19 earliest event.

20           And these are not just missing -- these are large  
21 chunks of missing time from their usage that make their data  
22 unreliable to give a picture of their usage over their relevant  
23 time periods. It's also the critical time periods when they  
24 were young and when they were injured by the platform.

25           So for all of those reasons that they don't touch  
26 here, Ms. McCarron's opinions are reliable; and matters that my  
27 opposing counsel brings up are matters for cross-examination.  
28 They want to cherry-pick and play gotcha with supposed errors

1 in her analysis that do not affect the reliability of her  
2 methodology. Her methodology was endorsed, actually. They  
3 don't like to, and they try to skate out of it, but all of  
4 defendants' experts endorse that data validation is a critical  
5 part of data analysis. It's a necessity first step.

6 That cross-comparison of complementary data sets  
7 is a valid and reliable methodology for doing data validation.  
8 One of them actually did the same kind of analysis comparing  
9 the DFCs to the snapshots. The others use the comparison that  
10 defendants argue is inapt; they compared DFS to device data.  
11 They weren't experts in device data either. You don't hear  
12 them arguing that they should be excluded on that.

13 THE COURT: Okay. Let's go back to defense counsel's  
14 second substantive slide, the -- the third slide in their deck.  
15 Do you have a copy of that?

16 MR. MANDICH: Yes. Are you talking about the 145,000  
17 duplicated interactions?

18 THE COURT: No, sir. I'm talking about the one before  
19 that.

20 MR. MANDICH: Okay.

21 THE COURT: It says, "Ms. McCarron double counted tens of  
22 thousands of interaction."

23 Okay. Is IP session history and video IP the  
24 same thing?

25 MR. MANDICH: I don't know the answer to that,  
26 Your Honor. What I -- what I do understand them to be saying  
27 in their brief is that either video browsing history -- you see  
28 browsing history and events IP data are identical or

1 duplicative categories or that events IP data is inclusive of  
2 all of the video browsing history and that was duplicative.  
3 That's what they argue in their brief. And the second part of  
4 that is an implication I'm taking from it because it's not  
5 entirely clear.

6 And much like -- it's understandable Your Honor  
7 has questions about what these categories are because they were  
8 not defined to us either, and opposing counsel can't define  
9 them here today. So someone looking at this, you can't -- a  
10 data analyst expert looking at this -- you can't assume that  
11 the producer of the data is producing duplicative data to you.  
12 That's why she asked questions, and she didn't get answers to  
13 it over months and months of meet-and-confers over this, and  
14 now we're here playing gotcha about it.

15 But even if we put that aside, Your Honor, as I  
16 noted, this is a matter for cross-examination. Supposed errors  
17 in her analysis do not touch the reliability of her  
18 methodology, which is what the Sargon issue is. They don't  
19 approach that. They can't because their defendants endorsed  
20 it -- I mean their experts endorsed it, Your Honor.

21 And so that's all I've got to say.

22 THE COURT: Okay. Very good. Let me ask defense counsel  
23 a question here if I may. Okay. So if you would look at  
24 slide -- plaintiffs' Slide 3. Okay? So this -- as I  
25 understand it, this purports to be activity on the device at a  
26 time when the sessions data would show the person was not on  
27 the device. Is that how you understand it?

28 MR. SENTENAC: My understanding is this is what -- Mark



1 Sentenac on behalf of the TikTok defendants. My understanding,  
2 this is one of Ms. McCarron's images or charts perhaps from her  
3 report. I believe she's amended it at least once. But  
4 the -- this reflects one of her attempts to compare two  
5 different, frankly, not comparable data sets -- the time spent  
6 data, which is the line on the graph, and then the separate  
7 interactions data, which is the likes, comments, video views,  
8 et cetera, that Ms. McCarron -- that TikTok separately  
9 produced.

10 And the reason why this is a process issue and  
11 her opinions are unreliable under Sargon is because her entire  
12 opinion on the inconsistencies in the data is based on how  
13 these graphs look to her; right? This is her -- her sanding  
14 test.

15 THE COURT: I wanted to ask you a question. Okay? So I  
16 think you've answered my question.

17 MR. SENTENAC: My apologies.

18 THE COURT: That's what this purports to be, is a --

19 MR. SENTENAC: Is a comparison, yes. But it --

20 THE COURT: If I may -- if I may ask the next question,  
21 which is assuming that is accurate, which you may not say it is  
22 accurate, it is affected by your Slide No. 3?

23 MR. SENTENAC: Yes, absolutely.

24 THE COURT: Why? Why?

25 MR. SENTENAC: There's a couple reasons.

26 THE COURT: Okay.

27 MR. SENTENAC: One, the interactions are not tabulated  
28 correctly; right? She's double counted the number on here.

1 And as our motion also explained, she has -- she has at times  
2 double counted or not counted all the time spent data.

3 And I jumped the gun, but this is a question I  
4 was getting to next, which is her entire opinion is based on a  
5 visual analysis of these charts. But if you shrink the number  
6 of interactions or grow the number of -- the line on the time  
7 spent, then that changes. And she hasn't redone these  
8 calculations to eliminate duplication, and so these should  
9 change. And we don't think they should, and we think that to  
10 offer them as they currently exist would be fundamentally  
11 unfair and prejudicial.

12 And I just want to make sure -- well, let me just  
13 make sure that answers your question.

14 THE COURT: Your answer is you need to redo the  
15 calculations to eliminate the duplication, and that that is  
16 what is wrong in her slide -- in Slide 3; is that correct?

17 MR. SENTENAC: Correct.

18 THE COURT: Thank you.

19 MR. SENTENAC: If I may just briefly respond to a couple  
20 things that opposing counsel mentioned. And I want to make  
21 sure that my attempt to explain the -- what was shown on our  
22 Slide 2 is very clear. It -- it's very simple. It's just  
23 data -- user account data that would be logged when --

24 THE COURT: It's -- it's not clear. So thank you.

25 MR. SENTENAC: So when a user logs in --

26 THE COURT: You haven't explained to me how IP session  
27 history is the same as video IP and public, private, and  
28 deleted videos.

1 MR. SENTENAC: So opposing counsel tried to characterize  
2 this as there should be an exact same number of different types  
3 of entries. These are different data types collected, and when  
4 a user logs in and views content, certain information is  
5 logged. And one of those might be their IP address, for  
6 example, which is a unique internet identifier. One of them --  
7 additional information is the video that they saw would be  
8 logged, the video ID; right?

9 And these are different data types that track  
10 different information, but they all relate to the exact same  
11 interaction, which is the playing of a video. The IP session  
12 history is arguably duplicative in and of itself because it --  
13 all it is reflecting is some data, all IP session history. It  
14 just is -- it is someone opened the app, someone logged into  
15 the app; right? It's no different. And as counsel just  
16 represented to you, when you open the app, you automatically  
17 see videos. So it's also in and of itself duplicative.

18 And I think what -- I think what you heard a lot  
19 of from my opposing counsel was a lot of speculation and  
20 complaints about gotcha games. I'd like to remind the Court  
21 and opposing counsel that they sat down with TikTok's PMQ  
22 witness for a full day and got to ask them questions about  
23 TikTok defendant's user data, and he stated under oath the time  
24 zone issue which plaintiff said was never clarified. It's  
25 frankly a little bit surprising to hear that argument given the  
26 testimony and full day of questioning they had. They had a  
27 right to clarify this information.

28 The last thing I wanted to point out, Your Honor,

1 is they spent a lot of time comparing the number of  
2 interactions during this period of time. This particular  
3 chart, since you focused on it, is a good example. This data  
4 has -- is different data sources. It covers different time  
5 periods. It doesn't always necessarily relate.

6 And Ms. McCarron did a very apples-and-oranges  
7 comparison by saying you have zero time spent but a bunch of  
8 time watching videos according to this different data set;  
9 right? But that doesn't mean anything given this  
10 apples-and-oranges comparison if data wasn't produced for the  
11 same time period that other data was produced. They're not  
12 making a valid comparison, which is what they would like to do  
13 and Ms. McCarron is doing.

14 So with that, unless you have any further  
15 questions, Your Honor.

16 THE COURT: I have lots of questions. I'm not getting an  
17 answer. Thank you very much. It hasn't been explained. I'm  
18 sorry. It hasn't been explained.

19 MR. MANDICH: Your Honor, I could --

20 THE COURT: I mean, I could perhaps say what I gathered  
21 from all of this, which was would you look, please, at -- at  
22 the segment that is called "IP Session History." It has a  
23 date. Do you see the date? Yes, I see the date.

24 The date is the time the IP session history  
25 began; correct? Defense counsel?

26 MR. SENTENAC: This is -- that is the time stamp, the  
27 start of the session -- the IP session history, yes,  
28 Your Honor.

1 THE COURT: That is the time that the user started a  
2 session; correct?

3 MR. SENTENAC: According to the IP session history, that  
4 is -- yes, that is the time stamp for a session.

5 THE COURT: Stop right there.

6 All right. It does not indicate the length of  
7 the session. It indicates the start of the session; correct?

8 MR. SENTENAC: Correct. It only includes certain  
9 metadata for the session.

10 THE COURT: Then when it says "public, private, and  
11 deleted videos," that is indicative of the identity of the  
12 video that was being used at that time; is that correct?

13 MR. SENTENAC: The public, private, and -- is account  
14 data related to a video, correct, a user's video. And it also  
15 identifies certain information, including the video, and it  
16 provides a link to the video.

17 THE COURT: Okay. And the video IP -- I don't have an  
18 idea what that is or how it's different from public, private,  
19 deleted videos. I mean, presumably, the company is interested  
20 in how many times a video is viewed, yes?

21 MR. SENTENAC: Sure.

22 THE COURT: Okay. So which -- which of these tells the  
23 company that? Video IP, public, private, and deleted videos?

24 MR. SENTENAC: None of these will explain how many times  
25 a particular video was played. This is -- this is account data  
26 for a particular user, right, a particular plaintiff and is  
27 logging a particular user's specific interactions at a very  
28 specific time on the TikTok platform; right?

1           This is a -- this is a user account data as  
2   opposed to consolidated or platform-wide data or data about  
3   specific videos which plaintiffs have taken discovery on in a  
4   different context. This all was produced in the context of  
5   plaintiffs' requests for individualized account user data for  
6   specific users and specific accounts.

7           THE COURT: Please, please, if I may. I'm trying to  
8   understand your slide. All right? I think I understand what  
9   IP session history is.

10           You're saying that public, private, and deleted  
11   videos gives the same time stamp. And what is it -- what  
12   information is it providing to your company?

13           MR. SENTENAC: The public, private, and deleted videos  
14   identifies the specific video that a user used, the date and  
15   time -- or viewed, the specific data and time of that view and  
16   a link.

17           THE COURT: Good. Okay. What does video IP record?

18           MR. SENTENAC: It is in connection with the same video,  
19   identifies the video, the date, time, and stamp -- the date and  
20   time of that video accessed by this particular user and the IP  
21   address and country, location. So it's different data related  
22   to the same user.

23           THE COURT: It identifies the video differently.

24           MR. SENTENAC: Correct.

25           THE COURT: Okay.

26           MR. SENTENAC: Yes, correct.

27           THE COURT: Different identification.

28           Let's look at video browsing history. Video

1 browsing history has a date and time. Actually, it has two  
2 dates and times; correct?

3 MR. SENTENAC: So that is two different -- it may  
4 have -- the picture above is Ms. McCarron's backup data.  
5 There's two examples of browsing history and two events of IP  
6 data. So that would be two different videos with a link  
7 identifying the video and the date and time for both.

8 THE COURT: So it has -- those dates and times, are they  
9 the same or different? They're the same; correct? You've got  
10 them in red.

11 MR. SENTENAC: They are the same with respect to the  
12 video browsing history, the first video browsing history and  
13 the first events IP.

14 THE COURT: I'm trying to understand. Video browsing  
15 history consists of four lines, yes? The first two of the  
16 lines are in red boxes, and that is -- those are exactly the  
17 same; correct?

18 MR. SENTENAC: No. If you're looking at just the video  
19 browsing history box --

20 THE COURT: And I'm sorry. I'll be honest. I've been  
21 having trouble with my eyes, and I -- I can't see that they're  
22 the same. Are they the same?

23 MR. SENTENAC: They are not the same. These are two  
24 different video views -- video browsing history events for a  
25 particular user on a particular date and time. And the first  
26 one is 6:49:13 a.m. UTC on November 20, 2023; the second one is  
27 the same day, November 20, 2023 at 6:49:35 a.m. UTC.

28 THE COURT: Okay. So those are two different times.

1 Thank you.

2 And then underneath each red box is something.

3 And what is that?

4 MR. SENTENAC: That's a hyperlink to the video, the video  
5 view.

6 THE COURT: To the video that they were viewing. Okay.  
7 So those are two different -- are they related in any way, just  
8 those two? They're not related in any way; right?

9 MR. SENTENAC: In this example, we provided two.

10 THE COURT: So then when you go to events IP, the first  
11 one in the red box relates to the first one in the red box  
12 under video browsing history; correct?

13 MR. SENTENAC: Exactly.

14 THE COURT: The second one in the red box under events IP  
15 relates to the second one in the video browsing history;  
16 correct?

17 MR. SENTENAC: Exactly.

18 THE COURT: Okay. Very good. So what information  
19 is -- and just to confirm in -- under video browsing history,  
20 the red box at the top is the same as the red box at the top in  
21 events IP; is that correct?

22 MR. SENTENAC: Correct.

23 THE COURT: And, again, I'm sorry. I can't read it.  
24 It's small, and I've literally been to two eye doctors in the  
25 last ten days.

26 MR. SENTENAC: I'm sorry.

27 THE COURT: And the second red box under video browsing  
28 history is the same as the events IP second box. Is that the



1 same?

2 MR. SENTENAC: Correct.

3 THE COURT: Okay. So what is the difference between  
4 video browsing history definitionally? What is that providing  
5 to your company?

6 MR. SENTENAC: So, again, this is two different data  
7 types, tracks two different sources that identify slightly  
8 different information. The first one identifies --

9 THE COURT: What does the first one identify, please, the  
10 browsing history?

11 MR. SENTENAC: The video that was viewed, a link to the  
12 video.

13 THE COURT: A link to the video. Thank you.

14 Events IP, what information is provided with  
15 regard to the red box there?

16 MR. SENTENAC: The IP address for the event, the event  
17 type, which says video play, and country, location. So it's  
18 different information related to a video play.

19 THE COURT: Okay. Okay. Thank you.

20 MS. MCCONNELL: Your Honor, may I? We would be happy to  
21 make Ms. McCarron available for Your Honor's purposes.

22 THE COURT: Look, I can't take all the depositions that  
23 you -- that plaintiffs took of the data PMQs for the companies.  
24 Counsel has to come and tell me and represent what -- what  
25 these entries are. Because you want me to keep out their  
26 expert's interpretation of it, and so I need to know that it's  
27 absolutely wrong. Okay? Okay. Thank you.

28 MS. MCCONNELL: Thank you, Your Honor.

1 MR. SENTENAC: May I just also offer to submit  
2 supplemental briefing?

3 THE COURT: I don't know. I'll take a look at it in  
4 light of these arguments and see what I need to decide. Thank  
5 you.

6 MR. SENTENAC: Thank you.

7 THE COURT: And I'm sorry. I'm probably more upset about  
8 this because of the situation with my eyes. Hopefully, I'll  
9 take care of that soon.

10 Okay. Let's talk about the status conference  
11 issues that we have. So we had a posting of September 7 --  
12 well, okay. So this is the issue about the additional material  
13 facts and the errata with respect to the issue -- with respect  
14 to the additional material facts going back to those summary  
15 judgment motions and defendants' desire to bring a motion to  
16 strike some part of it or the entire notice of errata or  
17 something like that.

18 Let me just say that having looked at this,  
19 everybody having explained as best they can what happened, I am  
20 not convinced that -- that defendants did not -- well, that's a  
21 double negative. It seems to me that the deadline for  
22 objection with respect to those motions was the deadline, and I  
23 don't think that defendants were misled sufficiently for me to  
24 extend that deadline. If with that tentative you still want to  
25 bring a motion, I'll hear it.

26 MS. SIMONSEN: Thank you, Your Honor. Ashley Simonsen  
27 for the Meta defendants.

28 And this is a motion specific to Meta. There was

1 nothing in the record to object to, Your Honor, because the  
2 plaintiffs failed to put it in the record. And the notion that  
3 we were to guess as to what excerpts of these documents they  
4 intended to put in the record or the entirety of the documents  
5 which was, of course, what they did actually intend to put in  
6 the record, and then object and move to seal, I think, is  
7 placing the blame on us for an error that really was committed  
8 by the plaintiffs.

9 THE COURT: Well, defendants -- excuse me -- plaintiffs  
10 clearly committed an error, it's true. The question is whether  
11 you were prejudiced to the extent that you were excused from  
12 the deadline. Figure out a briefing schedule for the motion,  
13 and I'll hear it.

14 Okay. Next we have scheduling issues that have  
15 been hanging out there. This was a posting of November 6. So  
16 you've agreed that Meta's motion to seal as to the proper forum  
17 motion for summary judgment errata filings is to be filed  
18 November 24, and I'm fine with that.

19 MS. SIMONSEN: Thank you, Your Honor. That was a date we  
20 agreed to, of course, if we are permitted to file a motion to  
21 strike and Your Honor's willing to consider that. It  
22 does -- the issue is that then we suffer the prejudice from the  
23 plaintiffs' filing of voluminous -- you know, 4,000 pages of  
24 hard documents.

25 THE COURT: It was -- they're going to use them at trial  
26 anyway, so let's figure out what I'm going to seal. That's my  
27 opinion.

28 MS. SIMONSEN: And I understand that's your view,

1 Your Honor. Respectfully, the volume of material I don't think  
2 would be possible to present at trial. And this is a problem  
3 we're facing now in the MDL as well with plaintiffs having  
4 filed thousands of our documents in full on the record that  
5 could never be presented at trial. And this is precisely the  
6 scenario that Overstock says is improper and --

7 THE COURT: Hang on. 180 -- no -- 209 documents and a  
8 bunch of them were depo -- a bunch of them were depositions. Okay.

9 MS. SIMONSEN: Your Honor, it was 4,000 pages, and the  
10 vast majority of these documents, all of them were attached in  
11 their entirety, not specific excerpts of the relevant material,  
12 which is what Overstock says parties are supposed to do on a  
13 motion for summary judgment. They're not relevant to the  
14 issues we raised on summary judgment, which we can explain in  
15 our motion to strike.

16 The fact that they were late is really not even  
17 the issue. It's the fact that this is a clear violation of  
18 Overstock, and we'd like the ability to show you --

19 THE COURT: Okay. You can do that.

20 I also need to rule on -- I don't think you all  
21 understand the volume that we're facing here.

22 MS. SIMONSEN: I do, Your Honor, and that's why  
23 we -- Your Honor should not have to deal with motions to seal  
24 4,000 pages of material, nor should Meta have to incur the  
25 burden while we're also trying to move to seal the hundreds of  
26 documents filed in connection with the other motions. I assure  
27 you, Your Honor, we are trying to be reasonable here.

28 THE COURT: 200 documents is not many.

1 MS. SIMONSEN: It's 4,000 pages, Your Honor. And we've  
2 got to go line by line to ensure that, for instance, specific  
3 employees' names that should be redacted get redacted.

4 THE COURT: But I've given you the general ruling with  
5 regard to employees' name.

6 MS. SIMONSEN: Understood, Your Honor. But it's still  
7 4,000 pages of material, and we do still have to make sure that  
8 there are not trade secrets in those materials.

9 THE COURT: Well, when are you going to move to seal  
10 them?

11 MS. SIMONSEN: We can move to seal tomorrow, Your Honor.  
12 I'm sorry. We can move to strike tomorrow. The motion to  
13 seal --

14 THE COURT: When are you going to move to seal if they  
15 stay in?

16 MS. SIMONSEN: Well, the agreement we reached with  
17 plaintiffs was November 24. But if Your Honor cannot rule  
18 before then, which I assume you cannot, we would like to move  
19 to seal within -- I think we could do it within ten days after  
20 Your Honor rules on the motion to strike as to the specific  
21 materials Your Honor allows to remain in the record.

22 THE COURT: Well, at the same time, you're asking me --  
23 everybody's asking me to rule on more motions in limine, which  
24 I understand. Okay? So -- to say nothing of the 14 motions on  
25 for today, only three of which were argued. I don't know what  
26 to say.

27 MS. SIMONSEN: Your Honor, the motion to seal has to be  
28 filed only because plaintiffs put forth 4,000 pages of --

1 THE COURT: I understand that. But when are we going  
2 to -- assume I agree with you -- assume I disagree with you  
3 after the motion is heard. When are we going to do the motion  
4 to seal?

5 MS. SIMONSEN: We can file it within ten days after  
6 Your Honor rules on the motion to strike.

7 MR. AUTRY: Your Honor, we oppose that schedule. We  
8 think the 24th of November was a generous offer. We don't  
9 think that 200 exhibits is outrageous. The other defendants  
10 were able to do their motions to seal, and we think Meta should  
11 be able to as well.

12 We would also say that, procedurally, these  
13 documents were identified. And even though there was the error  
14 with the attachment, Meta made objections to the documents in  
15 their response to our summary judgment filing indicating --

16 THE COURT: You know, I understand the merits of what  
17 you're arguing.

18 MR. AUTRY: But -- but those reasons --

19 THE COURT: I get it. I'm going to have to let them.  
20 We're not in federal court where, you know, Judge Gonzalez  
21 Rogers can say, "You're not filing that document. You're not  
22 filing that motion." I don't get to do that. You can file it.  
23 We'll figure out about the sealing later.

24 MS. SIMONSEN: Thank you, Your Honor.

25 THE COURT: But let me tell you, you guys are going to be  
26 redacting documents two minutes before trial.

27 MS. SIMONSEN: Understood completely, Your Honor. Thank  
28 you.

1 THE COURT: We ought to get it done now. Okay? And  
2 confer about a briefing schedule. I don't know when I'll be  
3 able to hear it.

4 MS. SIMONSEN: Thank you.

5 THE COURT: Okay. So you had -- and, again, I'm going on  
6 the November 6 filing -- the November 6 posting. So you have a  
7 discussion there about the schedule for briefing I.P.'s  
8 motions. So, first of all, I do want the motions to seal as to  
9 the I.P. motion for summary judgment to be handled according to  
10 the Rules of Court -- our California Rules of Court. Okay?

11 MS. SIMONSEN: Your Honor, I'm sorry. May I?

12 THE COURT: Yes.

13 MS. SIMONSEN: We learned from plaintiffs last week that  
14 they are intending to file full expert reports with their  
15 oppositions to our I.P. motions for summary judgment even  
16 though Your Honor specifically directed that this motion for  
17 summary judgment be filed early, originally in August, without  
18 the need for expert discovery. And so the other thing I  
19 want --

20 THE COURT: Remind me what the issue is on the  
21 I.P. motion for summary judgment. I forgot.

22 MS. SIMONSEN: It is an issue that relates to Section 230  
23 because the case resolves around a photo that was taken of  
24 I.P. in the bathroom at school and then distributed, and the  
25 harm was allegedly caused by that content and distribution.

26 THE COURT: Thank you.

27 MS. SIMONSEN: And, Your Honor, I also just want to say  
28 that when we were negotiating with plaintiffs about the

1 deadline to seal the errata exhibits, they shared with me that  
2 they're planning to file nearly all of those 200 documents with  
3 their I.P. opposition for motion for summary judgment, and so  
4 we're going to have to move to seal all of them.

5 THE COURT: Figure it out, folks, because I'm not going  
6 to hear it until January. Okay? It's -- it's -- you know,  
7 it's a priority, but it's not on the critical path, so I'm not  
8 going to hear it until January. So if you guys want to -- "you  
9 guys" -- I'm sorry. If you all want to renegotiate your  
10 schedule, I'm okay with that.

11 MS. SIMONSEN: And, Your Honor, I think one issue is that  
12 we would like to have this motion heard. What the parties have  
13 agreed to do is to put off the remainder of fact discovery  
14 until after Your Honor rules on the motion. And if we push the  
15 hearing date out, that shortens the amount of time left to  
16 complete fact discovery.

17 THE COURT: I can't do it.

18 MS. SIMONSEN: Understood. Well, I --

19 THE COURT: I would -- so, look, throughout this  
20 litigation, my goal has been to decide as early as possible the  
21 issues that you need me to decide. I'm not able to keep up  
22 now. I've got you -- your summary judgments ruled on last  
23 week. Okay? All ten of those and then I did -- what? -- four  
24 previously.

25 Anyway, just trust me. I would do it if I could.  
26 I think it is an important issue. We're going to have to hear  
27 it in January if possible.

28 MR. AUTRY: And on that note, Your Honor, we have some



1 discovery issues with three of the four defendants. As to  
2 I.P., targeted discovery requests related to the summary  
3 judgment motions that were filed and related to the photo  
4 issue, we have a meet-and-confer with defendants this week.

5 THE COURT: What do you mean three plaintiffs?

6 MR. AUTRY: Three defendants.

7 THE COURT: Three defendants. Okay.

8 MR. AUTRY: So YouTube fully responded to the discovery  
9 requests. The other three responded either -- zero for Meta or  
10 partially for TikTok and Snap, and so we need to meet and  
11 confer with defendants about that discovery before we can  
12 respond to the summary judgment motions. And we're going to  
13 meet and confer with them this week, hopefully, today or  
14 tomorrow.

15 THE COURT: So --

16 MS. SIMONSEN: Your Honor --

17 THE COURT: Yes?

18 MS. SIMONSEN: If I may, Your Honor. This is another  
19 issue where I don't want to have to take Your Honor through  
20 this procedural history, but we had an agreement with  
21 plaintiffs about a certain number of discovery requests that  
22 they could serve for these plaintiffs, and we believe that this  
23 discovery is not proper. It's out of time.

24 I'll set that to the side. We've agreed to  
25 confer with plaintiffs about the discovery. I think that the  
26 issues that they're raising are very inconsequential and can  
27 probably be resolved within a week and are relevant to the  
28 summary judgment motions. But I'm not even sure why Mr. Autry

1 is raising it because the whole reason we agreed to defer their  
2 opposition brief deadline for a week was so that we could  
3 confer with them. So I think we can set that --

4 THE COURT: It's set for November 14. The opposition was  
5 set for November, and it was agreed to.

6 MS. SIMONSEN: That was agreed to.

7 THE COURT: That was agreed to. Okay. So you know what,  
8 here's what we'll do: At your request, the hearing on  
9 I.P.'s -- these are plural motions for summary judgment;  
10 correct?

11 MS. MCCONNELL: Yes.

12 MR. AUTRY: Four motions.

13 THE COURT: Four motions for summary judgment by  
14 defendants as to I.P. currently set on calendar for December 12  
15 are continued to December 16 at the same time as the motions in  
16 limine -- at the same time as the motions in limine. We will  
17 put it in the minute order. All right?

18 MS. SIMONSEN: Thank you, Your Honor.

19 THE COURT: The hearing on the I.P. motions will be  
20 December 16.

21 MS. SIMONSEN: And I hate to bring you back to this, but  
22 I believe we started talking about the motion to seal in  
23 connection with I.P. We would very much appreciate,  
24 Your Honor -- plaintiffs have agreed to follow the sealing  
25 stipulation for this motion, and I know Your Honor was  
26 frustrated that we did not include page numbers with our first  
27 omnibus motion to seal, and that was an oversight for which we  
28 deeply apologize because I think it gave Your Honor the

1 appearance that we were proposing a process that actually is  
2 less smooth than the rules. And I assure you it is much  
3 easier --

4 THE COURT: No. I thought you guys -- I thought  
5 defendants were seriously disadvantaged by that procedure  
6 because I didn't think that you presented your argument -- if  
7 you had arguments to seal, I didn't think it presented them  
8 very well. And I felt a little bit bad ruling the way I did  
9 across the board, but I didn't have the evidence.

10 MS. SIMONSEN: Well, I appreciate that feedback,  
11 Your Honor, and I think we'll take that into account going  
12 forward.

13 I do, with Your Honor having raised that, need to  
14 point out one issue that I know Snap's counsel was planning to  
15 raise, which is that it appears that there were a couple of  
16 motions to seal with that first round of omnibus briefing that  
17 did not make their way to Your Honor. And I think we should  
18 follow up with Your Honor by a Case Anywhere posting. We're  
19 prepared to not move to seal the substantive issues because  
20 Your Honor didn't receive them, but that may be why you had the  
21 impression that the issues were not advocated --

22 THE COURT: You mentioned some motions -- a motion to  
23 seal filed on a particular date. We looked for them; we didn't  
24 find them. And I could have said that to you back in a  
25 posting, and I didn't because it was just too much. So if  
26 there are things you left behind or you think we missed,  
27 particularly -- and let me be honest. If there's something you  
28 think we missed, let us know. Okay?

1 MS. TELLER: You Honor, if I could speak to that just  
2 really quickly. Because we're trying to figure out and to do  
3 this in a way that inconveniences you the least possible.  
4 There was a motion to seal that included some of Snap's  
5 information, I think some of YouTube's as well, that was  
6 rejected; but we were not notified by the vendor at the time.  
7 And when your order came out noting that you did not find, for  
8 example, Ms. Lopez's declaration, that's why.

9 As Ms. Simonsen previewed, we're not seeking to  
10 seal the parts that I know that you will not allow to be  
11 sealed. But there are employee names in there that I think you  
12 would allow us to seal, and so we're trying to figure out the  
13 least burdensome way to collect that.

14 THE COURT: Well, you know, here -- again, we're trying  
15 to hold up our end here --

16 MS. TELLER: Yeah.

17 THE COURT: -- with two staff and one law clerk, not four  
18 like federal court, one. Okay? We're trying to hold up our  
19 end. And, you know, when you all have problems with your  
20 vendor and ask me to fix it, I would ordinarily try to do that,  
21 but it's tough.

22 MS. TELLER: Understood, Your Honor. Understood.

23 THE COURT: It's tough. So if you need to try to fix  
24 something, confer with opposing counsel, post it on Case  
25 Anywhere. Explain the whole thing. I'll -- you know, I'll  
26 look at it. I've always looked at stuff that you want me to  
27 do.

28 MS. TELLER: Will do, Your Honor.

1 THE COURT: I can't do everything.

2 MS. TELLER: Understood.

3 MS. SIMONSEN: And we appreciate that, Your Honor.

4 I do just want to come back to the point that I  
5 think that the omnibus sealing procedure is simpler for  
6 Your Honor and both sides, which is why, presumably, plaintiffs  
7 agreed to it.

8 THE COURT: Well, but we walked -- but the frustrating  
9 thing was we walked through it. I had my staff spend time on  
10 it. I had my courtroom staff spend time on it. I had my law  
11 clerk spend time on it. The three of us drafted it together,  
12 and that wasn't followed.

13 MS. SIMONSEN: Well, I think there was an issue,  
14 Your Honor. And I know we didn't get a chance to talk to  
15 Your Honor about this at the last hearing, but what happened  
16 was because we were moving to redact employee names that  
17 appeared throughout the documents, listing every single page  
18 number, we didn't understand that to be something Your Honor  
19 would find valuable or useful, knowing especially that under  
20 the sealing protocol, once you granted or denied our request,  
21 we would --

22 THE COURT: Let me do this rather than arguing about it.  
23 If both sides want the sealing protocol in place again, tell me  
24 and tell me how you propose to do it this time.

25 MS. SIMONSEN: Yes, Your Honor. We propose that within  
26 14 days after the final paper associated with the motion --

27 THE COURT: If you could put it in a --

28 MS. SIMONSEN: Oh, yes. Very good. We'll do that,

1 Your Honor. I apologize.

2 THE COURT: No, if you could put it in a posting. Please  
3 pull out the order that we did last time, and if there is  
4 something that you want about it or a summary, let me know.

5 MS. SIMONSEN: Will do, Your Honor. We'll try to make it  
6 even easier. We are trying our hardest. We know we have  
7 overwhelmed you, and we're trying, and we will continue to try.

8 MS. MCCONNELL: Your Honor, from plaintiffs' perspective,  
9 I mean, we have now pushed off most of these sealing issues now  
10 until, let's call it, December with a January trial date. And  
11 we're really reaching a point where the volume of filings that  
12 are still currently under seal is massive, and it's only  
13 growing larger, especially if we do file this I.P. --

14 THE COURT: It's a problem, but I will say this,  
15 defendants cut it down. I mean --

16 MS. MCCONNELL: We haven't seen Meta's filing yet.

17 THE COURT: But with respect to the omnibus -- the  
18 omnibus Sargon general causation motions, they definitely cut  
19 it back, and I want to empower that. Okay?

20 MS. MCCONNELL: We do as well. But I don't think that  
21 pushing off a decision on those for too long is really the  
22 right --

23 THE COURT: I understand. But, you know, what do you  
24 want me to do? Sit down with the calendar right here and say,  
25 "Okay. We'll do it here?"

26 So, look, you know what motions you filed. When  
27 do I get the motions to seal on the 14 motions we're hearing  
28 today?

1 MS. SIMONSEN: Those were filed last Friday as were all  
2 of the motions to seal regarding the motions in limine. So --  
3 and Your Honor did, of course, already rule on the sealing  
4 motions as to the general causation Sargon motions.

5 THE COURT: Correct.

6 MS. SIMONSEN: And I believe today is the day that we  
7 inform you which documents come unsealed on the public docket.  
8 So I don't think it's the case to say that everything's getting  
9 pushed off.

10 We -- Your Honor, unfortunately, you have a lot  
11 more now sealing motions before you to decide. And once again,  
12 I can assure you we have taken a very limited approach to  
13 sealing across the board on those motions.

14 THE COURT: Well, I credit you -- for the one I saw, I  
15 credit you for that, and I don't want to discourage that from  
16 happening.

17 I don't know. Figure something out. Post  
18 something. Okay?

19 MS. SIMONSEN: Thank you.

20 THE COURT: I'm trying to read these motions for  
21 substance. And try to figure out the sealing part. But I  
22 would start with the very carefully considered on our part  
23 order that we got out after hearing from all of you after we  
24 did it and, you know, see if it still works. But you can see  
25 from the ruling we made last -- I made last time what we  
26 thought was missing. All right?

27 So assure us that you're going to do that or ask  
28 for, specifically, an amendment to those stipulation and orders

1 so that we know what -- so that we know what we're doing. And,  
2 yes, we're getting backed up; but, you know, I haven't set  
3 anything for the week after Christmas yet.

4 So okay. So it's important -- we have a  
5 different clerk here today. It's important to say all of the  
6 14 motions on calendar today are under submission.

7 The motion to seal with respect to these Sargon  
8 motions was filed last Friday; is that correct?

9 MS. SIMONSEN: Yes, Your Honor.

10 THE COURT: Okay. And do we have a hearing date for  
11 that?

12 MS. SIMONSEN: We do not.

13 THE COURT: Okay.

14 MS. SIMONSEN: As far as I know. Unless anyone corrects  
15 me, I don't think we have a hearing date for that.

16 MS. MCCONNELL: And we don't have a hearing date for the  
17 motions to seal related to the motions for summary judgement  
18 filings for all the other defendants except for Meta. Those  
19 motions to seal were filed, I believe, on Tuesday the 4th.

20 MS. SIMONSEN: In any event, yes, we did file motions to  
21 seal as to the summary judgment motions last week as well. It  
22 was either Tuesday or Wednesday. So there are three sets of  
23 omnibus motions before Your Honor to seal on the motions for  
24 summary judgment -- the nongeneral causation Sargon motions and  
25 the motions in limine.

26 MS. MCCONNELL: Yes.

27 THE COURT: Okay. I'm not going to worry about the  
28 motions in limine until we hear them. So -- and, indeed, you



1 need the backup. And notice those for the date when the  
2 motions in limine are heard. Okay?

3 MS. SIMONSEN: We will.

4 THE COURT: Take care of that.

5 So let me ask this: Are the motions to seal with  
6 regard to the MSJs that I've decided, are those going to be  
7 argued -- submitted without argument?

8 MS. MCCONNELL: Presumably, yes. We haven't filed our  
9 oppositions yet. Our deadline has not past. We do intend to  
10 oppose some of what defendants have asked for.

11 THE COURT: Okay. Well, figure out when you want to have  
12 it heard, then. I mean, I need -- for now, file things with a  
13 hearing date.

14 MS. SIMONSEN: Understood, Your Honor. I believe  
15 defendants would be prepared to submit our argument sealing  
16 motions on the papers and without argument. The sealing --

17 THE COURT: Well, that's fine. But as long as I've  
18 got -- I mean, unless everybody was agreeing, I would set a  
19 hearing date even if everybody submits without argument. There  
20 should always be a hearing date on a motion.

21 MS. MCCONNELL: Understood.

22 THE COURT: So --

23 MS. MCCONNELL: I think we would also be prepared to  
24 submit without argument, but we should have a date.

25 THE COURT: Okay. Well, let's have stip and proposed  
26 order that says, "Okay. Here's these motions to seal. Here's  
27 when the oppositions are coming in; and, you know, they're set  
28 for the same date as the motions in limine," perhaps, or "Both

1 sides waive argument, and they're deemed under submission when  
2 the opposition is filed." We need something like that.

3 Ms. Miro, do you want to weigh in?

4 THE COURTROOM ASSISTANT: I'm sorry?

5 THE COURT: Do you want to weigh in on this? No?

6 THE COURTROOM ASSISTANT: Well, first of all, don't leave  
7 when we're done.

8 Regarding the December 12 date, we also have an  
9 OSC re dismissal why plaintiffs' claims should not be dismissed  
10 and a hearing regarding Trial Pool No. 1 jury instructions.  
11 Are we keeping that on the 12th, or do you want to move it to  
12 the 16th?

13 MS. SIMONSEN: I would keep on the 12th what we have on  
14 the 12th. I think we moved the I.P. summary judgment hearing  
15 date to the 16th just to allow for the adjustment to the  
16 briefing schedule, but we think it makes sense to still hear --

17 THE COURT: And those are all the motions in limine date.

18 MS. SIMONSEN: The 16th, correct.

19 THE COURT: Everything on the 12th stays on the 12th.

20 THE COURTROOM ASSISTANT: Other than the MSJs?

21 MS. MCCONNELL: Right.

22 THE COURT: Correct, yeah.

23 John, did you have something?

24 THE CLERK: No. I'm just taking it in, Your Honor.

25 I do have a question. The four MSJs on the 12th,  
26 all four we're moving to the 16th?

27 THE COURT: Yes. Thank you. Very good question. Okay.

28 MR. AUTRY: Your Honor, on the I.P. which we've set for

1 the 16th -- and the only reason I brought up the  
2 meet-and-confer that's forthcoming on the discovery issues is  
3 it could potentially affect when we can file our opposition.  
4 So if we can meet and confer and resolve those discovery issues  
5 like --

6 THE COURT: You agreed to the 14th. I'm leaving it  
7 there. Okay? You agreed to the 14th. I'm leaving it there.

8 MR. AUTRY: Your Honor, we --

9 THE COURT: I heard what you said, and I've set it when I  
10 set it because that's what you all agreed to. Hopefully, you  
11 can take care of everything.

12 Okay. Very good. Plaintiffs' liaison counsel to  
13 give notice. All right. Thank you very much.

14 (Proceedings concluded at 4:17 p.m.)

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SOCIAL MEDIA CASES,  
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT SSC 12

HON. CAROLYN B. KUHL, JUDGE

COORDINATION PROCEEDING SPECIAL  
TITLE [RULE 3.400]

)  
) CASE NO. JCCP5255

SOCIAL MEDIA CASES

)  
) REPORTER'S CERTIFICATE  
)  
)  
)

I, ESTRELLA HERMAN, OFFICIAL PRO TEM REPORTER OF THE  
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF  
LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 5  
THROUGH 73, COMPRISE A TRUE AND CORRECT TRANSCRIPT OF THE  
PROCEEDINGS TAKEN IN THE ABOVE-ENTITLED MATTER REPORTED BY ME  
ON NOVEMBER 10, 2025.

DATED: NOVEMBER 13, 2025



ESTRELLA HERMAN, CSR  
OFFICIAL PRO TEM COURT REPORTER  
CSR NO. 13865

SOCIAL MEDIA CASES,  
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